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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/817,551	03/26/2001	Thomas G. Feldpausch	FEL07 P-300	9372

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 10/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/817,551

Applicant(s)
THOMAS G. FELDPAUSCH ET AL.

Examiner
YVONNE M. HORTON

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Mar 26, 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-24 is/are allowed.
- 6) ☒ Claim(s) 1-8, 10, 11, 13, 15-19, 25, and 26 is/are rejected.
- 7) ☒ Claim(s) 9, 12, and 14 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Mar 26, 2001 is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 6) ☐ Other:

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DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to clearly show
 - the “Y-shaped” members
 - how the top ends of the bottom frame, at the corners, are disconnected to form an opening at the door
 - the doorway
 - the corner edges coming together at the corneras described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: there is no element number (30). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

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Specification

3. The disclosure is objected to because of the following informalities: the specification need to more clearly define the “y-shaped” members. Appropriate correction is required.

Claim Objections

4. Claim 14 is objected to because of the following informalities: In claim 14, line 2, --a-- should be inserted after “includes”. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 10 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 10 recites the limitation "holding means" in line 1. There is insufficient antecedent basis for this limitation in the claim.

8. Claim 25 recites the limitation "the geometric shape" in line 6. There is insufficient antecedent basis for this limitation in the claim.

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Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-7,10,11,15 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by

US Patent #3,810,482 to BEAVERS. BEAVERS discloses an erectable structure (10) including

a bottom expandable/collapsible (12) having an bottom internal frame (16L,R,B), sides (16L),

^{top} and ^{flexible} cover (14); ^{416T(12)} and a top expandable/collapsible frame (12) including internal frame

(16T), a plurality of jointed (22, J) radial members (20), and a flexible top cover (14), see the

marked attachment. Regarding claim 2, the internal frame (16L,R,B) is positioned completely

within the bottom frame (12) when collapsed, column 4, line 34-38. In reference to claim 3, the

top/bottom members (12) are interconnected. Regarding claim 4, the top frame (12) forms a roof

concaved outwardly. In reference to claim 5, when collapsed, the structure (10) is inherently the

size of a golf bag. Regarding claim 6, the top frame (12) includes intermediate joints (22). In

reference to claim 7, the internal frame (16L,R,B) includes a pivoting "X-shaped"

interconnecting pattern. Regarding claims 10 and 11, the structure includes a drawstring in the

form of a handle (40) and the structure (10) is free-standing. Regarding claim 15, the structure

^{the cover}
(10) includes a bottom edge (68) having ground engaging members (GE), see the marked

*the structure (10) has
has a bottom
edge or
underside
that engages the ground*

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attachment. In reference to claim 19, the top frame (12) includes repeating pairs of V-shaped patterns.

11. Claims 1,8,16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #1,666,757 to SNYDER. SNYDER discloses an erectable structure including a bottom expandable/collapsible (10) having an bottom internal frame, and flexible cover (61); and a top expandable/collapsible frame (12) including internal frame (16T), a plurality of joints (31,52) radial members (50,51,56), and a flexible top cover (62). In reference to claim 8, the top frame (12) includes pivotally connected triple "Y-shaped" members (50,51,56) (colored in blue).

Regarding claim 16, the top internal frame (12) includes pivotal peak members (51). In reference to claim 18, the top frame (12) includes repeating "Y-shaped" patterns (colored in blue) pivotally (31) connected to the bottom frame (10).

12. Claims 1 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #2,864,389 to SMITH et al. SMITH et al. discloses an erectable structure including a bottom expandable/collapsible frame (16,17) having a bottom internal frame (16) and flexible cover (10); and a top expandable/collapsible frame including internal frame (21), a plurality of jointed radial members (R), and a flexible top cover (10). In reference to claim 17, the top internal frame (21) includes secondary members (R) pivotally connected to the peak members (21) and includes a retainer (20) DRAWSTRING (27) AND KNOB (27'), see the marked attachment.

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13. Claims 25 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #3,810,482 to BEAVERS. BEAVERS discloses the method of quickly collapsing a structure including the steps of providing and expandable/collapsible bottom frame (12) and a top frame (12) lowering and collapsing the top frame (12) such that the bottom frame (12) surrounds the top frame (12). In reference to claim 26, the frame members (12) are "X-shaped" and includes a flexible covering (14) and inherently covers 70 percent of the total area.

Allowable Subject Matter

14. Claims 9 and 12-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

15. Claims 20-24 are allowed.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

YMH

Primary Examiner

October 1, 2002